

FILED

2011 FEB 18 PM 4:48
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

Bohdan Polny
c/o 11 Le Mans
Newport Coast, CA 92657
(949) 244-2016

BOHDAN POLNY,

PLAINTIFF

v.

CAPITAL ONE SMALL BUSINESS,
ALAN BRODKIN

DEFENDANT

CASE NO. SACV11-00297 AG (FMO_x)

IN RE: PETITION FOR AN
ADMINISTRATIVE REVIEW OF
REMEDY

IN ADMIRALITY

N/S
ADR

Comes now Bohdan Polny, Third Party Plaintiff, Libelant, Petitioner, Real Party in Interest, by special visitation and not appearing generally, before this court seeking a remedy in Admiralty as is provided by "The Saving to the Suitors Clause" at USC 28 - 1333(1). I am standing in my unlimited commercial liability as a Secured Party Creditor, Executive Trustee for the Trust known as BOHDAN POLNY, and request that the Third Party Defendant(s), LIBELEES, do the same, and waive all of their immunities.

I, Bohdan Polny, Third Party Plaintiff am petitioning the Judge to review my Administrative Remedy in reference to SUPERIOR COURT, COUNTY OF ORANGE, STATE OF CALIFORNIA, and **CASE No. 30-2010-00361265** to where Third Party Plaintiff is seeking setoff / discharge / dismissal of debt against Third Party Defendant.

FILE ON DEMAND

1 Prior to these proceedings, Third Party Plaintiff demanded to see the ORIGINAL
2 contract between Third Party Defendant and Third Party Plaintiff and requested Third
3 Party Defendant complete the Debt Collector Disclosure Statement. At no time did the
4 Third Party Defendant produce the alleged contract, complete the Debt Collector
5 Disclosure Statement or any other documents. Third Party Defendant is clearly in
6 violation of the FDCPA, 15 U.S.C. 1692 et seq. and, therefore, lacks standing in this or
7 any court to request a Trial or Judgment against Third Party Plaintiff.

8 In reference to **CASE No. 30-2010-00361265** above:

- 9 1. Third Party Plaintiff stands on his claim as submitted in attached Exhibit A, pages
10 1 through 229 inclusive.
- 11 2. This court must give equal opportunity to all parties to show and prove their facts.
12 The Third Party Defendant has no facts of merit in this case, cannot show an
13 original blue ink wet signatures on any agreement/contract required to bring an
14 actual case before this or any court for any reason:

15 The five basic perquisites of a contract are:

- 16 i. Two, or more parties (of legal age and sound mind);
17 ii. An offer (one party offers a service or product, which the other party
18 desires);
19 iii. Acceptance (the terms and conditions are accepted by the agreed
20 parties) proving acceptance by signature by both participating
21 parties;
22 iv. Consideration (something of value must change hands); and
23 v. A termination date (a time specific terminating legal obligations).
- 24 3. No contract was consummated; no signature of agreement by alleged Plaintiff
25 was received; Contract law demands: 1) Two or more parties 2) An offer, 3)
26 Acceptance by signature of both parties in agreement 4) Consideration 5) A
27 termination date.
- 28 4. Third Party Plaintiff ask the court to take Third Party Plaintiff's claim as
submitted, then ask Third Party Defendant to bring forth their record that
supports that Third Party Plaintiff's record is not true. Third Party Plaintiff's

1 record states that Third Party Defendant has not responded and fallen into
2 Default to the Request for Validation dated February 27, 2010 and August 25,
3 2010 and the Debt Collector Disclosure Statement.

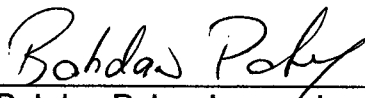
4 5. Third Party Defendant through Third Party Defendant's attorney, having no
5 Factual Claim, properly signed contracts/agreements or firsthand evidence of any
6 kind and believes none to exist. There is no contract, there is no standing in this
7 case. This case is must be VOID for lack of standing. Third Party Defendant
8 CAPITAL ONE SMALL BUSINESS objects to Deposition and refused to provide
9 the court a sworn or affirmed affidavit; and Third Party Defendant's attorney Mr.
10 Alan Brodtkin has committed mail fraud, does not have personal knowledge and
11 cannot testify in any court for any client. Having no competent fact witness who
12 could testify under oath and subject to cross examination regarding authenticated
13 evidence, this case should be stricken and closed from further action or
14 procedure.

15 6. Lastly, if Third Party Defendant can not produce a record of response to the
16 Request for Validation and the Debt Collector Disclosure Statement dated
17 August 25, 2010, or the Notice of Fault dated September 9, 2010, and show
18 firsthand knowledge of any true and correct evidence including the original blue
19 ink contract of the alleged Plaintiff in any agreement along with alleged Original
20 owners signature to prove a true, right and correct agreement, or contract and
21 also show rights, or standing in favor of CAPITAL ONE SMALL BUSINESS, to
22 bring this false complaint before this court the Third Party Plaintiff respectfully
23 requests:

- 24 a. This case be dismissed in the name of justice and sanctions brought
25 against this Third Party Defendant CAPITAL ONE SMALL BUSINESS and
26 Third Party Defendant's attorney Mr. Alan Brodtkin for attempting to hide
27 true facts from this honorable court;
- 28 b. This court rule in favor of Third Party Plaintiff's record as submitted in this
IN RE: PETITION FOR AN ADMINISTRATIVE REVIEW and issue an
order to dismiss with prejudice Third Party Defendant's claim;

- 1 c. Determine that Third Party Defendant and each of them either individually
2 or in representative capacities have no further right to alleged claim and
3 removing any further capacity to file any motions, order, complaint having
4 NO STANDING, OR FACTUAL EVIDENCE to present to this honorable
5 court;
- 6 d. Awarding Third Party Plaintiff damages, punitive, disbursements, and an
7 enhanced prevailing party fee against Third Party Defendant, CAPITAL
8 ONE SMALL BUSINESS and Attorney Mr. Alan Brodtkin, for bringing false
9 charges and this continued harassment and continually attempting to trick
10 and deceive this court into believing this is a valid complaint. Third Party
11 Plaintiff request the indulgence of this court to Setoff / discharge /
12 dismissal of debt against Third Party Defendant or damages be awarded
13 to Third Party Plaintiff as per the UCC Financing Statement claim filed with
14 the California Secretary of State, document # 26858920002, filing #
15 107250528545, filing date 11/3/2010 in the amount of Two Hundred and
16 Forty Thousand and 00/100 dollars (\$240,000.00).

17 DATED this 18 day of February, 2011

18 
19 Bohdan Polny, In propria persona
20 c/o 11 Le Mans
21 Newport Coast, CA 92657
22
23
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25
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27
28

Bohdan Polny
c/o 11 Le Mans
Newport Coast, CA 92657
(949) 244-2016

BOHDAN POLNY,

PLAINTIFF

CASE NO.

PROOF OF SERVICE

v.

CAPITAL ONE SMALL BUSINESS,

ALAN BRODKIN

DEFENDANT

/ IN ADMIRALITY

PROOF OF SERVICE

I, BRENT LAROCHE am over the age of 18 years and am not a party to the within action. I am a resident of or employed in the county of Orange where the mailing took place. My residence or business address is:
3254 Watermarke Place, Irvine, CA 92612

On February 18, 2011, I mailed from Irvine, CA the following documents:

- **CIVIL COVER SHEET, PETITION FOR AN ADMINISTRATIVE REVIEW OF REMEDY and EXHIBIT A, Pages 1 through 229.**

I served the documents via mail by enclosing all the above described pages into an envelope and depositing the sealed envelope with the United States Postal Service with the postage fully prepaid with the Registered Mail No. RA 600 437 296 US Return Receipt Attached. The envelope was addressed and mailed as follows:

Law Offices of Alan L. Brodtkin & Associates

Attn: Alan L. Brodtkin

15500 Rockfield Blvd., Suite #B

Irvine, CA 92616

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: February 18, 2011

BRENT LAROCHE

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

EXHIBIT A

Pages 1 - 229

UCC FINANCING STATEMENT**FOLLOW INSTRUCTIONS (front and back) CAREFULLY****A. NAME & PHONE OF CONTACT AT FILER [optional]**

949-244-2016

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

BOHDAN POLNY

11 LeMans

Newport Coast, CA 92657

USA

DOCUMENT NUMBER: 26858920002

FILING NUMBER: 10-7250528545

FILING DATE: 11/03/2010 21:51

IMAGE GENERATED ELECTRONICALLY FOR WEB FILING
THE ABOVE SPACE IS FOR CA FILING OFFICE USE ONLY**1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names**

1a. ORGANIZATION'S NAME				
OR				
1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
BRODKIN		ALAN		
1c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
15500 ROCKFIELD BLVD., SUITE B		IRVINE	CA	92618
1d. SEE INSTRUCTIONS	ADD'L DEBTOR INFO	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL ID#, if any
				<input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME				
OR				
2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
CAPITOL ONE SMALL BUSINESS				
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
PO BOX 30273		SALT LAKE CITY	UT	84130
2d. SEE INSTRUCTIONS	ADD'L DEBTOR INFO	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID#, if any
		CORPORATION	UNITED STATES	<input checked="" type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME				
OR				
3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
Polny		Bohdan		
3c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
c/o 11 Le Mans, Newport Coast, CA [92657]				
				COUNTRY
				ZZZ

4. This FINANCING STATEMENT covers the following collateral:

Notice of lien by Secured Party upon debtor(s) in the amount of \$240,000.00 (Two Hundred and Forty Thousand and 00/100 dollars) upon the outcome of case No. 30-2010-00361265, SUPERIOR COURT, COUNTY OF ORANGE, STATE OF CALIFORNIA, CENTRAL JUSTICE CENTER.

Documents of the Private Administrative Procedure by Secured Party include:

1. Request for Validation dated February 27, 2010 and August 25, 2010
2. Debt Collector Disclosure Statement dated August 25, 2010
3. Notice of Fault In Dishonor, Opportunity to Cure dated September 9, 2010
4. Certificate of Non-Response dated November 2, 2010
5. Notice of Default In Dishonor dated September 20, 2010
6. Certificate of Non-Response / Non-Performance dated September 20, 2010

5. ALT DESIGNATION: ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

☐ 6. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS
Attach Addendum [if applicable]

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s)
[ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

FILING OFFICE COPY

Exhibit 1
page 1 of 2

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME		
OR 9b. INDIVIDUAL'S LAST NAME BRODKIN	FIRST NAME ALAN	MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:

DOCUMENT NUMBER: 26858920002

IMAGE GENERATED ELECTRONICALLY FOR WEB FILING
THE ABOVE SPACE IS FOR CA FILING OFFICE USE ONLY**11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names**

11a. ORGANIZATION'S NAME				
OR 11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
11c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
11d. SEE INSTRUCTIONS	ADD'L DEBTOR INFO	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID#, if any <input type="checkbox"/> NONE

12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME				
OR 12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
12c. MAILING ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☐ fixture filing.**14. Description of real estate:**15. Name and address of RECORD OWNER of above-described real estate
(if Debtor does not have a record interest):**16. Additional collateral description:**17. Check only if applicable and check only one box.Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate18. Check only if applicable and check only one box.☐ Debtor is a TRANSMITTING UTILITY☐ Filed in connection with a Manufactured-Home Transaction - effective 30 years☐ Filed in connection with a Public-Finance Transaction - effective 30 years

FILING OFFICE COPY

Exhibit 1
Page 2 of 2

PRESENTMENT OF EVIDENCE UNDER NOTARY SEAL

A FINAL EXPRESSION IN A RECORD

It is hereby certified, that on the date noted below, the undersigned Affiant, a Duly Commissioned Notary Public, as a third party and not a party to the matter, merely for the sole purpose of presentment of evidence, at the request of Bohdan S. Polny, from outside the United States, caused to be delivered To/Recipient:

CENTRAL JUSTICE CENTER
[PRIVATE – JUDGES CHAMBERS ONLY]
Department C-23
Attention: Honorable Robert Moss
700 Civic Center Drive W
Santa Ana, CA 92702

RE: **CASE NO. 30-2010-00361265**
CAPITAL ONE SMALL BUSINESS v.
POLNY CHIROPRACTIC CORPORATION / BOHDAN POLNY

COURT DATE/TIME: November 8, 2010, 8:30 AM

Dear Honorable Robert Moss:

Pursuant to the instructions of the Authorized Representative, please find enclosed PRIVATE DOCUMENTS as Evidence for the above referenced Case Number:

1. Presentment under Notary Seal, Request for Validation and Debt Collector Disclosure Statement dated August 25, 2010
2. Notice of Fault in Dishonor and Certificate of Non-Response dated September 9, 2010
3. Notice of Default in Dishonor and Certificate of Non-Response / Non-Performance dated September 20, 2010.

I am **CERTIFYING** these records as **TRUE** and **CORRECT** copies of the Original, except the Certificates of Non-Response / Non-Performance are Originals.

This observation in facilitation of international commerce should not be deemed a power of attorney or the practice of law. The undersigned Notary Public witness is merely a duty-bound messenger.

This record certifies that the said presentments were placed in a envelope properly addressed to Recipient at the said address above and delivered to AAA Attorney Services of 4122 E. Chapman Ave, Orange, CA 92869 on November 2, 2010 for delivery to Recipient.

Upon completion, please return documents to:

Annie Jin Li, Notary Public
2549-B Eastbluff Drive
Newport Beach, CA 92660

Thank you for your assistance. Regards,

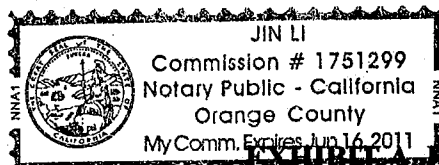
WITNESS my hand and official seal.


NOTARY PUBLIC

Void where prohibited by law

My commission expires: 06/16/2011

11/02/2010 (Seal)
DATE



(Stamp)

PRESENTMENT OF EVIDENCE UNDER NOTARY SEAL

EXHIBIT A, PAGE 227 PAGE 1 OF 1

PRESENTMENT UNDER NOTARY SEAL

NOTICE TO AGENT IS NOTICE TO PRINCIPAL
NOTICE TO PRINCIPAL IS NOTICE TO AGENT

From:

Annie Jin Li, NOTARY PUBLIC
2549-B Eastbluff Drive
Newport Beach, CA 92660

To/ Recipient(s):

Alan Brodtkin
Attorney at Law
15500 B. Rockfield Blvd.
Irvine, CA 92618
USPS Certified Mail Tracking No. 7009 1680 0001 3240 6609 - Notary's Certificate of Service

RE: Recipient File # 307281
Capitol One National Assoc v. Polny

Dear Mr. Alan Brodtkin,

I have been contacted by Bohdan S. Polny, from outside the United States for the purpose of presenting a notice under notary seal.

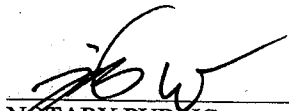
I have been asked to mention that:

- i) the **Request for Validation**, enclosed herewith, executed, Bohdan Stephan Polny, requires a response; and
- ii) Recipient response is to be received through me no later than ten (10) days from this postmark to prevent issuance of a certificate verifying your non-response or default pursuant to my statutory authority.

This observation in facilitation of international commerce should not be deemed a power of attorney or the practice of law.

Thank you for your assistance. All communication should be delivered through me at the above address by Registered or Certified Mail to ensure delivery and appropriate certification. **Service in any other manner will be defective on its face.**

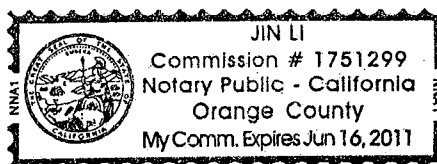
WITNESS my hand and official seal.



NOTARY PUBLIC
Void where prohibited by law

August 25, 2010 (Seal)
DATE

My commission expires: 06/16/2011



(Stamp)

August 25, 2010

Bohdan S. Polny
c/o Annie Jin Li, NOTARY PUBLIC
2549-B Eastbluff Drive
Newport Beach, CA 92660

Alan Brodtkin
Attorney at Law
15500 B. Rockfield Blvd.
Irvine, CA 92618

USPS Certified Mail Tracking No. 7009 1680 0001 3240 6609 - Notary's Certificate of Service

Re: Claim File # 307281
Capitol One National Assoc v. Polny

Request for Validation

Dear Mr. Brodtkin;

This is a notice that your claim is disputed.

On February 27, 2010 your office was sent a Request for Validation via USPS Certified Mail No. 7005 3110 0001 1115 9780 and was delivered at 10:13 am on March 02, 2010 in IRVINE, CA 92618, attached herein. I have received NO response to date. Your office was issued a Notice of Default on May 17, 2010, attached herein. This is a second request for validation and an opportunity to cure the Default made pursuant to the Fair Debt Collection Practices Act. I am entitled to validate your claim per UCC 3-501(b), in order to determine the validity of your claim. I dispute your debt collection related allegations, deny the same, and demand strict proof and verification thereof.

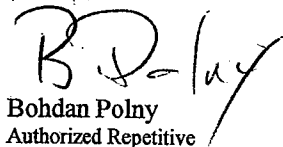
I request the following:

1. A certified copy of a Contract with both parties' wet signatures showing the agreement in question to be binding & valid; AND
2. Pursuant to the UCC § 9-102(7)(a)(b), an Authenticated Invoice or sworn affidavit by you/your office, signed under full commercial liability; AND
3. If you are a third party debt collector:
 - a. Provide documentation of your authority to act in behalf of the assignor.
 - b. Complete the enclosed "DEBT COLLECTOR DISCLOSURE STATEMENT". This document must be completed in accord with the "Fair Credit Reporting Act," at [15 USC § 1681 et seq.], and the "Fair Debt Collection Practices Act," at [15 USC § 1692 et seq.], and the applicable portions of "Truth in Lending" (Regulation --- Z), at 12 CFR part 226 et seq., and demands as cited above "Offer of Performance."

This dispute, denial, and demand are made in accordance with federal and state law. Until such time as you are able to provide the demanded information please consider this as a continuing formal dispute regarding all charges, finance charges, penalties and other fees related to the above alleged noted account. In the event that you are unable or unwilling to properly respond to this notice and demand, please send me a billing statement or other communication indicating a zero balance due on the account. Your failure, per UCC 1-201(b)(17), to provide me with my requests and Demand within ten (10) days will be construed as a waiver of any and all claims regarding the above-listed account, and will act as a confirmation that the ACCOUNT IS NOT VALID.

Please limit your communication with me to writing only.

Best regards,


Bohdan Polny
Authorized Repetitive

Certified Mail # 7009 1680 0001 3240 6609

DEBT COLLECTOR DISCLOSURE STATEMENT

Re: "Offer of Performance"

This statement and the answers contained herein may be used by Respondent, if necessary, in any court of competent jurisdiction.

**NOTICE TO THE AGENT IS NOTICE TO THE PRINCIPAL
NOTICE TO THE PRINCIPAL IS NOTICE TO THE AGENT
(Applicable to all Successors and Assigns)**

Respondent: BOHDAN POLNY

For File #: 307281

Alleged Amount: \$78,707.15

Alleged Creditor: CAPITOL ONE NATIONAL ASSOC.

Notice: This "Debt Collector Disclosure Statement" is not a substitute for, nor the equivalent of, the herein above requested verification of record, i.e., "Confirmation of correctness, truth, or authenticity, by affidavit, oath, or deposition" (Black's Law Dictionary 6th Edition), re the alleged debt, and must be completed in accord with the "Fair Credit Reporting Act," at [15 USC § 1681 et seq.], and the "Fair Debt Collection Practices Act," at [15 USC § 1692 et seq.], and the applicable portions of "Truth in Lending" (Regulation --- Z), at 12 CFR part 226 et seq., and demands as cited above "Offer of Performance." Debt Collector must make all required disclosure clearly, accurately, conspicuously in writing re the following:

1. Name of Debt Collector: _____
2. Address of Debt Collector: _____
3. Name of alleged Debtor: _____
4. Address of alleged Debtor: _____
5. Alleged Account Number: _____
6. Alleged debt owed: \$ _____
7. Date alleged debt became payable: _____
8. Re this alleged account, what is the name and address of alleged "Original Creditor," if different from Debt Collector:

9. Re this alleged account, if Debt Collector is different from alleged "Original Creditor," does Debt Collector have bona fide affidavit of assignment for entering into alleged original contract between Original Creditor and alleged Debtor:
YES / NO
10. Did Debt Collector purchase this alleged account from the alleged Original Creditor?
YES / NO
11. If applicable, date of purchase of this alleged account from Original Creditor, and purchase amount:

Date: _____; **Amount:** \$ _____

DEBT COLLECTOR DISCLOSURE STATEMENT

Page 1 of 7

EXHIBIT A, PAGE 224

12. Did Debt Collector purchase this alleged account from a previous debt Collector:

YES / NO N/A

13. Date of purchase of this alleged account from previous Debt Collector, and purchase amount:

Date: _____ Amount \$ _____

14. Regarding this alleged account, Debt Collector is currently the: (a) Owner; (b) Assignee; (c) Other ---

explain: _____

15. What are the terms of the transfer of rights re this alleged account?

16. If applicable, transfer of rights re this alleged account was executed by the following method: (a) Assignment; (b) Negotiation; (c) Novation; Other ----

explain: _____

17. If the transfer of rights re this alleged account was by assignment, was there an equal exchange of consideration?

YES / NO N/A

18. What was the nature and cause of the equal exchange of consideration cited in #17 above, if your answer was YES explain? _____

19. If the transfer of rights re this alleged account was by negotiation, was the account taken for value?

YES / NO N/A

20. What is the nature and cause of any value cited in #19 above, if your answer was YES?

21. If the transfer of rights re this alleged account was by novation, was consent given by alleged Debtor?

YES / NO N/A

22. What is the nature and cause of any consent cited in #21 above, if your answer was YES?

23. Has Debt Collector provided alleged Debtor with the requisite verification of the alleged debt as required by the "Fair Debt Collection Practices Act"?

YES / NO

24. Date of said verification cited in #23 above, which provided alleged Debtor;

Date: _____;

25. Was said verification cited in #23 above, in the form of a sworn or affirmed oath, affidavit, or deposition?

YES / NO

26. Verification cited in #23 above, if your answer is YES, was provided alleged Debtor in the form of:

OATH, AFFIDAVIT, DEPOSITION

27. Does the Debt Collector have any knowledge of any claim(s)/defense(s) re this alleged account?

YES / NO

28. What is the nature and cause of any claim(s)/defense(s) re this alleged account?

29. Was the alleged Debtor sold any products/services by Debt Collector?

YES / NO

30. What is the nature and cause of any products/services cited in #29 above if your answer was YES?

31. Does there exist a verifiable, bona fide, original commercial instrument between Debt Collector and alleged Debtor containing alleged Debtor's verified, bona fide signature?

YES / NO

32. What is the nature and of any verifiable commercial instrument cited in #31 above, if your answer was YES?

33. Does there exist verifiable conclusive evidence of an exchange of a benefit or detriment between Debt Collector and alleged Debtor?

YES / NO

34. What is the nature and cause of this verifiable conclusive evidence of an exchange of a benefit or detriment as cited in #33 above, if your answer was YES?

35. Does any absolute evidence exist of verifiable external act(s) giving the objective semblance of agreement between Debt Collector and alleged Debtor?

YES / NO

36. What is the nature and cause of any external act(s) giving the objective semblance of agreement as cited above in #35, if your answer was YES?

37. Have any charge-offs been made by any creditor or debt collector regarding this alleged account?

YES / NO

38. Have any insurance claims been made by any creditor or debt collector regarding this alleged account?

YES / NO

39. Have any tax write-offs been made by any creditor or debt collector?

YES / NO

40. Have any tax deductions been made by any creditor or debt collector regarding this alleged account?

YES / NO

41. Have any judgments been obtained by any creditor or debt collector regarding this alleged account?

YES / NO

42. Does the Debt Collector and/or the Creditor purport to have and to hold a "Verifiable Contract" where an equal exchange of consideration exists, between the Debtor, with the Debt Collector and/or the Creditor?

YES / NO

43. What is the nature and cause of this Verifiable Contract, cited in #42 above, if answered YES?

44. Does the Debt Collector and/or Creditor purport to have and to hold a Verifiable Contract which purports to have a bona fide signature of Debtor?

YES / NO

45. Does the Debt Collector and/or Creditor purport to have and to hold a Verified Contract, which purports to have a bona fide signature of alleged Debtor, which the Debt Collector and/or Creditor has first hand personal knowledge of, and will verify under oath, affirmation, deposition, under penalty of perjury?

YES / NO

46. If Debtor and/or Creditor purport to have and to hold a Verifiable Contract, which purports to have a bona fide signature of Debtor, please produce a true, correct, and complete copy of said contract, and verify under oath, affirmation, deposition, under penalty of perjury that Debt Collector and/or Creditor has first hand, personal knowledge that Debtor's signature appears thereon, or state the nature and cause why the Debt Collector and/or Creditor, cannot, will not produce said contract, which purports to have a bona fide signature, and will not, cannot verify under oath, affirmation, or deposition to having first hand, personal knowledge, as cited in #45 above, if answered YES?

47. Does the Debt Collector and/or Creditor, have any type or kind of verifiable claim, which complies with all of the provisions set forth in the "Fair Credit Reporting Act," codified at [15 USC §§1681 et seq.] ?

YES / NO

48. What is the nature and cause which Debt Collector and/or Creditor rely upon for such claim, and what procedures were implemented in accord with the "Fair Credit Reporting Act" to investigate such claim, cited in #47 above, if answered YES? _____

49. Does the Debt Collector and/or Creditor, have verifiable facts which they rely upon in order to provide the (Credit Reporting Agency) CRA, with information on alleged Debtor, which complies with the provisions set forth in [15 USC § 1681s-2], and which is verifiable in accordance with [15 USC § 1692g] ?

YES / NO

50. What is the nature and cause which Debt Collector and/or Creditor rely upon for such verifiable facts, and what procedures were implemented in accord with the above said provisions cited in #49 above, if answered YES? _____

51. Did the Debt Collector and/or Creditor, advise the alleged Debtor of the numerous rights which he maintains as accorded in the "Fair Debt Collections Practices Act" codified at [15 USC §§ 1692 et seq.]?

YES / NO

52. What is the nature and cause which the Debt Collector and/or Creditor relies upon which is verifiable, and clearly and accurately identifies how, and when the Debt Collector and/or Creditor, informed Debtor of such right accorded and cited in #51 above, if answered YES? _____

53. Does the Debt Collector and/or Creditor have any verifiable, articulable facts which they rely upon to furnish the (Credit Reporting Agency) CRA, with unverified, inaccurate, erroneous information in violation of the provisions set forth in the "Fair Credit Reporting Act" [15 USC if 1681d, 1681i, 1681n, 1681o, 1681q, 1681s, 1681s-2]; and, The Unfair or Deceptive Act or Practices in Commerce in violation of 45(a) of the "Federal Trade Commission Act" codified [15 USCG 45(a)(b)]; and, "The Fair Debt Collection Practices Act" codified [15 USC if 1691(b)(c)(d)(e)(f)(g)(i)(j)(k)] ?

YES / NO

54. What is the nature and cause of these verifiable, articulable facts which Debt Collector and/or Creditor relies upon for providing unverified, inaccurate, erroneous information in violation of the provisions set forth and cited in #53 above, if answered YES, if answered NO, provide proof positive of verifiable facts relied upon under oath, affirmation, deposition and under penalty of perjury, that verifiable proof of claim exists;

Debt Collector's and/or Creditor's, failure/refusal, both intentional and otherwise, in completely, unambiguously answering points "1" through "54" above and returning this Debt Disclosure Statement, as well as providing Respondent with requisite verification validating he herein above reference alleged debt, constitutes the Debt Collector's and alleged Creditor's tacit acquiescence that Debt Collector and/or Creditor have no verifiable, lawful, bona fide claims against Respondent in above referred alleged account or any and all other alleged accounts not specifically enumerated herein. Debt Collector and/or Creditor by it's/their failure/refusal to respond, and/or it's/their failure to provide each and every verified requisite proof as requested herein within the thirty(30) day time period allowed, will constitute the Debt Collector(s) and/or Creditor(s) waiver of any and all alleged claims against Respondent and indemnifies and holds harmless Respondent against any and all costs and fees heretofore and hereafter incurred, including but not limited to any and all related collection attempts involving the herein above referenced alleged account and any and all related accounts.

Declaration: The undersigned hereby declares under penalty of perjury of the laws of the State of California and the United States of America, that the statements made in this "Debt Collector Disclosure Statement" are true, correct, complete and not misleading, in accordance with the Undersigned's first-hand, personal knowledge and belief.

Date

Printed Name of Signatory

Official Title of Signatory

Authorized Signature for Debt Collector,
and/or Creditor, Undersigned.

Debt Collector must timely complete and return this "Debt Collection Disclosure Statement." Debt Collector's alleged claim will not be considered if any portion of this "Debt Collector Disclosure Statement" is not completed and timely returned with all required documents, which specifically includes the requisite verification, made in accordance with the law and codified in the "Fair Credit Reporting Act" at [15 USC § 1681 et seq.] and the "Fair Debt Collection Practices Act" at [15 USC § 1692 et seq.], and which states in part: "A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt," and "the threat to take any action that cannot be legally taken," all of which are violations of law. If the Debt Collector and/or alleged Creditor, do not respond as required by law, Debt Collector's and/or Creditor's alleged claim will not be considered and Debt Collector and/or alleged Creditor may be liable for any and all damages for any continued collection efforts, as well as any damnification sustained by Respondent. Please allow thirty (30) days for processing excluding the day of receipt after Respondent's and CRA(s) receipt of Debt Collector's and/or alleged Creditor's response.



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Track & Confirm

Search Results

Label/Receipt Number: 7009 1680 0001 3240 6609
Status: **Delivered**

Your item was delivered at 10:12 am on August 27, 2010 in IRVINE, CA 92618. A proof of delivery record may be available through your local Post Office for a fee.

Additional information for this item is stored in files offline.

Track & Confirm

Enter Label/Receipt Number.

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United States Postal Service



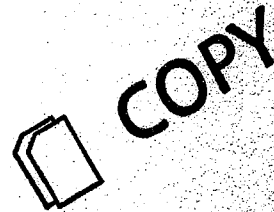
United States Postal Service

February 27, 2010

Bohdan S. Polny
11 Le Mans
Newport Coast, CA 92657

Alan L. Brodtkin & Associates
15500 B. Rockfield Blvd.
Irvine, CA 92618

Re: Attached Correspondence
File #: 307281

 COPY

Request for Validation

Greetings:

Thank you for your recent inquiry. This is not a refusal to pay, but a notice that your claim is disputed.

This is a request for validation made pursuant to the Fair Debt Collection Practices Act. I am entitled to validate your claim per UCC 3-501(b), in order to determine the validity of your presentment. I dispute your debt collection related allegations, deny the same, and demand strict proof and verification thereof.

I will require the following:

1. A certified copy of a Contract with **both** parties' wet signatures showing the agreement in question to be binding & valid.
2. Any and all instruments in your possession that bear my signature that support your claim per UCC 3-401(a)(1).
3. Any and all account and general ledger statements or accounting reports related to compliance with Financial Accounting Standards 95 & 140 as to the disputed account.
4. A sworn affidavit or a signed invoice by your office under Penalty of Perjury.
5. If you are a third party debt collector, you will need to provide documentation of your authority to act in behalf of the assignor.

This dispute, denial, and demand are made in accordance with federal and state law. Until such time as you are able to provide the demanded information please consider this as a continuing formal dispute regarding all charges, finance charges, penalties and other fees related to the above alleged noted account. In the event that you are unable or unwilling to properly respond to this notice and demand, please send me a billing statement or other communication indicating a zero balance due on the account.

Your failure, per UCC 1-201(b)(17), to provide me with my requests and Demand within ten (10) days will be construed as a waiver of any and all claims regarding the above-


listed account, and will act as a confirmation that no further action may be taken on your part with respect to the subject account.

Please limit your communication with me to writing only. If I receive any telephone calls from your company, I will consider them to constitute harassment. Please be advised that unwanted telephone calls are a class 1 misdemeanor in this state and I will file a complaint against the caller with the attorney general's office. I maintain a telephone log of each phone call and in some cases, make an audio recording when necessary.

Be advised that you have the right to remain silent. If you ignore this notice and contact me by telephone, you and your employees agree to allow me to make an audio recording of our conversation and you and your employees agree to allow the recording and any other information obtained to be used against you and your employees in a court of law. I will accept only your written communication.

Best regards,

Bohdan Polny
Bohdan Polny

 **COPY**

JL-PURPOSE ACKNOWLEDGMENT

State of California

County of ORANGE } SS.

On Feb 27, 2010, before me, YOUNG SAM CHOI, Notary Public,

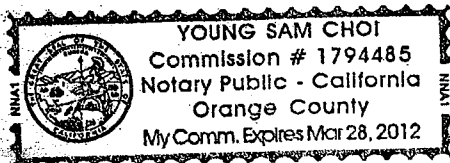
DATE

personally appeared Behdan S. Polny, who proved to me on the

basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

COPY

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



WITNESS my hand and official seal.

[Signature]
NOTARY'S SIGNATURE

PLACE NOTARY SEAL IN ABOVE SPACE

OPTIONAL INFORMATION

The information below is optional. However, it may prove valuable and could prevent fraudulent attachment of this form to an unauthorized document.

CAPACITY CLAIMED BY SIGNER (PRINCIPAL)

- ☐ INDIVIDUAL
- ☐ CORPORATE OFFICER _____ TITLE(S)
- ☐ PARTNER(S)
- ☐ ATTORNEY-IN-FACT
- ☐ TRUSTEE(S)
- ☐ GUARDIAN/CONSERVATOR
- ☐ OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

Request for Validation
TITLE OR TYPE OF DOCUMENT

2
NUMBER OF PAGES

2/27/2010
DATE OF DOCUMENT

SIGNER (PRINCIPAL) IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

RIGHT
THUMBPRINT
OF
SIGNER

OTHER



EXHIBIT A, PAGE 214

NOTICE OF DEFAULT IN DISHONOR

Certified Mail #: 7009 2250 0002 1084 9687

Notice date: May 17, 2010

Claimant(s): Bohdan Stephan Polny
Respond to:
c/o Young S. Choi, NOTARY PUBLIC
10073 Valley View Street
Cypress, CA 90630

Respondent(s): Capitol One
Mr. Gary Perlin, CFO
PO Box 30273
Salt Lake City, UT 84130-0273

Reference: Account # 00570701270037

This instrument is a **Notice of Default in Dishonor** upon the instrument presented by the Claimant(s) on or about March 29, 2010 with the U.S.P.S. Certified Mail Article No. 7009 2250 0000 2361 6438 and received by the Respondent on or about April 01, 2010, 7:29 am at the address referenced above.

PRESENTMENT: On March 29, 2010, Young S. Choi, NOTARY PUBLIC, at the request of the Claimant(s), presented, a true and correct copy of the following documents/Presentment(s), hereinafter "Presentment(s)" to the Respondent(s):

- **Request for Validation** by the Claimant.

DISHONOR: By the terms and conditions of the agreement resulting by the offer and acceptance of the Presentment, the Respondent(s) are under the duty and obligation to timely and in good faith honor the request by a presentment within ten (10) days with a response on a point-by-point basis, via a sworn affidavit, under the Respondent(s) full commercial liability, signing under the penalty of perjury that the facts contained therein are true, correct, complete and not misleading. Mere declarations are an insufficient response. A dishonor of the offer discharges the alleged liability that the Respondent(s) have claimed.

Allowing ten (10) days for the response, and an additional ten (10) days on the opportunity to cure, **Notice of Fault in Dishonor**, and the time allowed having passed for response, and the Notary showing no record of response, Claimant(s) now deems the request to have been dishonored on April 08, 2010, and the **Notice of Fault in Dishonor** to have been dishonored on April 24, 2010, thereby comprising a confession of judgment on the merits.

DEFAULT: For the Respondent(s) failure to respond places the Respondent(s) at fault. For the Respondent(s) failure, refusal, or neglect in the presentment of a verified response to the Presentment and to the **Notice of Fault in Dishonor**, Respondent(s) thereby acquiesce and tacitly agree with all terms, conditions and stipulations set forth within the **Notice of Fault in Dishonor**.

Of this presentment take due **Notice** and heed, and govern yourself accordingly.

IN WITNESS WHEREOF I hereunto set my hand and seal on this 17th day of May, 2010 and hereby certify all the statements made above are true, correct and complete.

Date: May 17/2010

Claimant: Bohdan Stephan Polny (Seal)
Bohdan Stephan Polny

State of California)
) ss:
County of Orange)

JURAT

Subscribed and sworn to (or affirmed) before me on this 17th day of MAY, 2010, by Bohdan Stephan Polny, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

(seal)



Brandon B. Choate
Signature **BRANDON CHOATE**
EXHIBIT A, PAGE 213

NOTARY'S CERTIFICATE OF SERVICE

It is hereby certified, that on the date noted below, the undersigned Notary Public mailed to:

Capitol One
Mr. Gary Perlin, CFO
PO Box 30273
Salt Lake City, UT 84130-0273

USPS Certified Mail Tracking No. 7009 2250 0002 1084 9687

COPY

hereinafter, "Recipient," a true and correct copy of the documents regarding Bohdan S. Polny as follows:

1. **NOTICE OF DEFAULT IN DISHONOR** dated on or about May 17, 2010, in reference to Account # **00570701270037**;
2. reference copy of this Notary's Certificate of Service (signed original on file)

delivered by First Class Certified US Mail, Return Receipt attached, by placing same in a postpaid envelope properly addressed to Recipient at the said address and depositing same at an official depository under the exclusive face and custody of the U.S. Postal Service within the State of California.



NOTARY PUBLIC

5/17/2010
DATE

(Seal)



My commission expires: September 7, 2013

(Stamp)

Brandon Choate, NOTARY PUBLIC

BRANDON B. CHOATE
THE UPS STORE
2549 Eastbluff Drive
Newport Beach, CA 92660

NOTARY'S CERTIFICATE OF SERVICE

It is hereby certified, that on the date noted below, the undersigned Notary Public, a third party and not a party to the matter, mailed To/Recipient(s):

Alan Brodtkin
Attorney at Law
15500 B. Rockfield Blvd.
Irvine, CA 92618

USPS Certified Mail Tracking No. 7009 1680 0001 3240 6609

hereinafter, "Recipient," a true and correct copy of the documents regarding Bohdan S. Polny as follows:

1. **Request for Validation** pertaining to recipients file #307281 dated February 27, 2010;
2. **Second Request for Validation** pertaining to recipients file #307281 dated August 25, 2010;
3. **DEBT COLLECTOR DISCLOSURE STATEMENT**;
4. **Notice of Default** dated May 17, 2010
5. **Notary's Letter of Presentment Under Notary Seal** dated on or about August 25, 2010;
6. reference copy of this **Notary's Certificate of Service** (signed original on file)

delivered by First Class Certified US Mail Return Receipt attached by placing same in a postpaid envelope properly addressed to Recipient at the said address and depositing same at an official depository under the exclusive face and custody of the U.S. Postal Service within the State of California.


NOTARY PUBLIC

August 25, 2010 (Seal)
DATE

My commission expires: 6/16/2011

(Stamp)

Annie Jin Li, NOTARY PUBLIC
2549-B Eastbluff Drive
Newport Beach, CA 92660

